

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAROD BARTON SCHWAB,

Defendant.

CR 20-34-M-DLC

ORDER

Before the Court is United State Magistrate Judge Kathleen L. DeSoto's Findings and Recommendation Concerning Plea. (Doc. 41.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnel Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Mr. Schwab is charged with one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and seven counts of distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). (Doc. 1.) Based on Mr. Schwab's appearance before Judge DeSoto, pursuant to Federal Rule

of Criminal Procedure 11, she recommends that this Court adjudge him guilty of one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1), defer acceptance of the Plea Agreement (Doc. 29) until it has reviewed the agreement and the Presentence Investigation Report, and impose the agreed forfeiture against him. (Doc. 41 at 2.) Reviewing these recommendations for clear error, the Court finds none.

Accordingly, IT IS ORDERED that the Court ADOPTS the Findings and Recommendation (Doc. 41) IN FULL.

IT IS FURTHER ORDERED that Mr. Schwab's motion to change plea (Doc. 30) is GRANTED, and he is adjudged guilty of one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1).

IT IS FURTHER ORDERED that in light of the United States' Unopposed Motion for Preliminary Order of Forfeiture (Doc. 38), the Court will adjudicate the issue of forfeiture by separate order.

DATED this 9th day of December, 2020.



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Dana L. Christensen, District Judge  
United States District Court